Finding Ways to Take Sides but Remain United

By Michelle A. Josephson

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In thinking about the City of Brotherly Love, I'm struck that we are living through a divisive time, failing to agree on much of anything and demonizing differing views. Everywhere you look, one group or position is pitted against another, particularly in politics. People dig in their heels and will not even listen to other approaches. We have really hit an all-time high—or, from my perspective, an all-time low—with what can only be described as tribalism.

As ASN returns to Philadelphia and (in many ways) the birthplace of the United States of America, I must ask: Are we still united? I am not so sure. That may sound like an unpatriotic opinion, especially in July when the country celebrates its 247th birthday. However, our current state of politics has me feeling that way.

Stubbornly taking sides is an age-old phenomenon. As a transplant nephrologist, I am well aware of people taking sides, healthy debates about care and ethics, and identity politics. Is a transplant nephrologist a transplant surgeon or a nephrologist? My answer to that question is “Yes!” I like having a clear identity, and I’m fundamentally a consensus builder. As a transplant nephrologist, however, I have gotten used to living with multiple perspectives and simultaneous identities. Through this experience, I have become comfortable hearing different perspectives and, when possible, finding common ground.

Not everyone feels this way. Some colleges and universities try to shield students from hearing ideas that differ from their own and that they may find discomforting. Although a frequent practice, not all academic institutions approach differences of perspective this way. Robert Zimmer, president of the University of Chicago from 2006 to 2021, put it into place. “Chicago Principles,” guidelines for upholding the idea that “concerns about civility and mutual respect can never be used as a justification for closing off discussion of ideas.” Perhaps my years at the University of Chicago have helped me get used to hearing different perspectives, as much as I may disagree with some of them.

In medicine, no matter our affiliations or titles, we all benefit from a shared, common goal: the health of the patient. That is a huge advantage in having us consider different approaches and being able to reach agreement or accept a plan. And in nephrology—whether private practitioner, academic clinician, researcher, educator, general nephrologist, transplant nephrologist, or other kind of nephrology subspecialist—we too have a common, shared goal. This reality was nicely articulated in the We’re United 4 Kidney Health campaign that used surveys, focus groups, and a consensus-building process to identify four priorities: intervene earlier, transform transplant, accelerate innovation, and achieve equity.

Working toward such a shared goal is one way to unite. Another approach is to unite in opposition to a shared enemy. David M. Oshinsky won the 2006 Pulitzer Prize in History for his book, Polio: An American Story. The Crusade That Mobilized the Nation Against the 20th Century’s Most Feared Disease. He tells the story of how the public, led by a patient organization that became the March of Dimes, and scientists, most notably Jonas E. Salk, MD; Albert B. Sabin, MD; and Isabel M. Morgan, PhD, worked together to find a cure.

To take it a step further, an old proverb states, “amicus meus, inimicus inimici mei” (“my friend, the enemy of my enemy”). Although the origin of this proverb is debated, I’m struck by how many cultures have used it (or a close variation) throughout history.

With the story of polio and this proverb in mind, you must be thinking that is exactly what we did during the COVID-19 pandemic. Did we stick together against a shared enemy—severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2)—particularly for the first year of the pandemic? I believe we reverted to opposing camps during the second year of the pandemic due to the difficulty in balancing personal freedoms and public health. Too many people unnecessarily lost their lives because they did not accept the science behind the vaccine.

Balancing personal freedoms and public health is nothing new. We have speed limits, seat belt laws, and motorcycle helmet laws, to name a few. However, the pandemic helped fuel this division between personal freedoms and public health, causing it to take on other dimensions and reach a crisis point, especially when we consider the current debate over reproductive health in the United States.

In Roe v. Wade, a 1973 case before the U.S. Supreme Court, Roe argued that the Texas antilibation law violated an individual’s right to liberty under the 14th Amendment to the U.S. Constitution. Roe further argued that the Texas law infringed on rights to marital, familial, and sexual privacy guaranteed by the Bill of Rights and that the right to an abortion is absolute. Roe sided with personal freedoms.

By contrast, Wade argued that states have an interest in safeguarding health, maintaining medical standards, and protecting prenatal life. According to Wade, aetus is a person protected by the 14th Amendment, and protecting prenatal life from the time of conception is a compelling state interest. Wade argued for the public health of the unborn fetus.

In the Supreme Court’s decision on Roe v. Wade, Justice Harry Blackmun, who drafted the majority opinion, wrote that the court held a woman’s right to an abortion was implicit in the right to privacy protected under the 14th Amendment. Nearly 50 years later in 2022, the Supreme Court reversed itself in Dobbs v. Jackson Women’s Health Organization, stating that the Constitution does not confer a right to abortion and returned to individual states the power to regulate any aspect of abortion not protected by federal law.

Since the Dobbs v. Jackson ruling, we have witnessed turmoil, unrest, and chaos, as well as even more divisiveness.

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cess to mifepristone.

As a member of the Council of Medical Specialty Societies (CMSS), ASN condemned Judge Kacsmaryk’s ruling and raised concerns over how it undermines the FDA (Table 1). A “coalition of 50 specialty societies representing more than 800,000 physicians across the house of medicine,” CMSS “works to catalyze improvement through convening, collaborating, and collective action” (6). In addition to ASN, CMSS includes the American College of Physicians, American College of Surgeons, and American College of Obstetricians and Gynecologists.

The Biden Administration took Judge Kacsmaryk’s ruling to the Fifth Circuit Court, which blocked the part of the ruling that overturned the 2000 FDA approval but also restricted mifepristone’s use from 10 weeks to 7 weeks of pregnancy. The administration then appealed the ruling to the Supreme Court, which blocked the lower court’s ruling but has returned the case to the Fifth Circuit Court. The future of access to mifepristone is unclear. The only matter that is clear is that this situation is very fluid. Whatever recent rulings apply to mifepristone are unlikely to be the end of this story, and the Supreme Court’s decision in Dobbs last year raises the possibility that each state will have the ability to regulate mifepristone individually in the future.

In addition to concerns over how Judge Kacsmaryk’s ruling undermines FDA’s authority, sets a terrible precedent for the future of patient-physician relationships, and increases the likelihood of further divisiveness, nephrologists have a personal stake in the outcome of access to reproductive care, including mifepristone. Full access to reproductive health services in nephrology is often a matter of kidney health and sometimes a matter of life and death (7). This is also an equity issue, with individuals who are socially disadvantaged and minoritized having both an increased risk of kidney diseases as well as reduced access to reproductive care (8).

For our patients with reduced kidney function, pregnancy can further diminish their kidney health as well as be associated with pre-term deliveries. Furthermore, for all women, even healthy women who do not have access to reproductive services, illegal abortions performed by individuals who are not medically trained have been associated with acute kidney failure, septicemia, and death (9).

As nephrologists, we have a vested interest in full reproductive health services, including but not limited to pre-pregnancy counseling, contraception, and prenatal care, as well as surgical and medical abortions. For our patients with kidney diseases—no matter what state in which they live—there is no choice between personal freedoms and public health. This issue is a matter of both kidney health and survival. Can we at least agree upon that?

Supporting FDA’s role in safeguarding patients, I urge the Supreme Court to act swiftly to reverse Judge Kacsmaryk’s decision. I also recognize that we live in divisive times. This issue is a matter of both kidney health and survival. There is no choice between personal freedoms or public health. As stated, “CMSS opposes any governmental efforts that interfere with the practice of medicine and undermine the integrity of the patient-physician relationship.”

Physicians of all specialties depend on FDA for the rigorous assessment of the safety of drugs and devices. It is critical that physicians and other scientific experts determine the safety and efficacy of drugs and treatments. This ruling sets in motion a process to block access to mifepristone, which is used in the treatment of several diseases. This judicial decision on mifepristone could lead other courts to inappropriately block access to other safe and efficacious FDA-approved drugs and treatments.

Physicians and the patients we serve trust the expertise of FDA. If this judge’s ruling is allowed to stand, physicians and patients can no longer assume that determinations about drug safety are made by experts. We support the FDA’s role in safeguarding patients and urge the United States Supreme Court to act swiftly to reverse Judge Kacsmaryk’s decision.

See Council of Medical Specialty Societies (10).

Table 1. CMSS response to Judge Kacsmaryk’s ruling

| The Council of Medical Specialty Societies (CMSS), a coalition of 50 specialty societies across medicine, strongly condemns Judge Kacsmaryk’s decision which threatens to restrict access to a Food and Drug Administration (FDA)-approved medication and other treatments. We stand with patient groups who have recently warned of the threat that could result from this misguided Mifepristone ruling. We remain concerned that the recent order from the Fifth Circuit Court of Appeals will generate further confusion among the public as to the availability of mifepristone, a drug conclusively proven to be safe and effective, and undermine the scientific rigor of FDA review and approval.

| The case of Alliance for Hippocratic Medicine et al v. FDA et al sets a dangerous precedent that erodes an institution critical to Americans having access to the care they need. This decision is in direct conflict with CMSS’s policy opposing government interference into the practice of medicine. As stated, “CMSS opposes any governmental efforts that interfere with the practice of medicine and undermine the integrity of the patient-physician relationship.” Physicians of all specialties depend on FDA for the rigorous assessment of the safety of drugs and devices. It is critical that physicians and other scientific experts determine the safety and efficacy of drugs and treatments. This ruling sets in motion a process to block access to mifepristone, which is used in the treatment of several diseases. This judicial decision on mifepristone could lead other courts to inappropriately block access to other safe and efficacious FDA-approved drugs and treatments.

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